

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

BRIMA FOFANA, and FELIPE  
PANIANGUA

Plaintiffs,

v.

CITY OF WORCESTER, THOMAS B. DUFFY,  
MICHAEL J. HANLON, SHAWN FRIGON,  
BRENDON A. TIVNAN, THOMAS J. BARNEY,  
JASON R. POWERS, CHRISTOPHER  
PANARELLO, TREVIS COLEMAN, STEPHEN  
MITCHELL, STEVEN SARGENT, EDWARD  
AUGUSTUS,

Defendants.

Case No. 4:22-CV-40148-MRG

**Guzman, D.J.**

**Order**<sup>1</sup>

<b><u>Count</u></b> <b><u>#<sup>2</sup></u></b>	<b><u>Cause of Action</u></b> <sup>3</sup>	<b><u>Implicated</u></b> <b><u>Defendants</u></b> <sup>4</sup>	<b><u>Applicable Motion to Dismiss</u></b> <sup>5</sup> <b><u>Will</u></b> <b><u>Be...</u></b>
<b>I</b>	42 U.S.C. § 1983 Violation of the Fourth and Fourteenth Amendments Unlawful Search and Seizure	All Named Defendants	<ul style="list-style-type: none"> <li>• <b><u>GRANTED</u></b> as to Defendant City of Worcester.</li> <li>• <b><u>GRANTED</u></b> as to Defendant Hanlon.</li> <li>• <b><u>DENIED</u></b> as to Defendants Duffy, Mitchell, Powers, Tivnan, Barney, Coleman, Frigon, and Panarello.</li> </ul>

<sup>1</sup> The Court will issue a Memorandum providing its reasoning for each of these rulings, but this Bottom Line Order serves the purposes of efficiency by letting the parties know the Court's dismissal rulings so that discovery can proceed more efficiently.

<sup>2</sup> The Amended Complaint [ECF No. 35] contains eleven counts but mistakenly includes two counts labeled as "Count IV." [ECF No. 35 at 48-49]. The Court has therefore construed the second "Count IV" as "Count V" -- and has renumbered the following counts accordingly.

<sup>3</sup> The causes of actions listed are drawn verbatim from the Amended Complaint. Id.

<sup>4</sup> As construed by the Court. The Court will refer to all individual Defendants by their surname throughout.

<sup>5</sup> Before the Court are three separate motions to dismiss: **(1)** Defendant City of Worcester's partial motion to dismiss [ECF No. 40]; **(2)** Defendants Duffy, Mitchell, Powers, and Tivnan's partial motion to dismiss [ECF No. 44], and **(3)** Defendants Barney, Coleman, Frigon, Hanlon, and Panarello's motion to dismiss [ECF No. 42].

<b>II</b>	42 U.S.C. § 1983 Violation of the Fourteenth Amendment Equal Protection	All Named Defendants	<ul style="list-style-type: none"> <li>• <b><u>GRANTED</u></b> as to Defendant City of Worcester.</li> <li>• <b><u>GRANTED</u></b> as to Duffy, Tivnan, Powers, and Mitchell.</li> <li>• <b><u>GRANTED</u></b> as to Defendants Barney, Coleman, Frigon, Hanlon, and Panarello.</li> </ul>
<b>III</b>	<i>Monell</i> Liability	Defendant City of Worcester	<ul style="list-style-type: none"> <li>• N/A – Not the subject of Defendant City of Worcester’s Motion to Dismiss. [ECF No. 41 at 10].</li> </ul>
<b>IV</b>	Civil Conspiracy [-] 42 U.S.C. Section 1983	All Named Defendants	<ul style="list-style-type: none"> <li>• <b><u>GRANTED</u></b> as to Defendant City of Worcester.</li> <li>• <b><u>GRANTED</u></b> as to Defendant Hanlon.</li> <li>• <b><u>DENIED</u></b> as to Defendants Duffy, Mitchell, Powers, Tivnan, Barney, Coleman, Frigon, and Panarello.</li> </ul>
<b>V</b>	Assault and Battery	All Named Defendants	<ul style="list-style-type: none"> <li>• <b><u>GRANTED</u></b> as to Defendant City of Worcester.</li> <li>• <b><u>GRANTED</u></b> as Defendant Hanlon.</li> <li>• <b><u>DENIED</u></b> as to Defendants Barney, Coleman, Frigon, and Panarello.</li> <li>• <b><u>N.B.</u></b> Defendants Duffy, Mitchell, Powers, and Tivnan did not move to dismiss Count V. [ECF No. 44 at 2].</li> </ul>
<b>VI</b>	False Arrest and Imprisonment	All Named Defendants	<ul style="list-style-type: none"> <li>• <b><u>GRANTED</u></b> as to Defendant City of Worcester.</li> <li>• <b><u>GRANTED</u></b> as Defendant Hanlon.</li> <li>• <b><u>DENIED</u></b> as to Defendants Barney, Coleman, Frigon, and Panarello.</li> <li>• <b><u>N.B.</u></b> Defendants Duffy, Mitchell, Powers, and Tivnan did not move to dismiss Count VI. [ECF No. 44 at 2].</li> </ul>
<b>VII</b>	Unreasonable Force	All Named Defendants	<ul style="list-style-type: none"> <li>• <b><u>GRANTED</u></b> as to Defendant City of Worcester.</li> <li>• <b><u>GRANTED</u></b> as to Duffy, Tivnan, Powers, and Mitchell.</li> <li>• <b><u>GRANTED</u></b> as to Defendants Barney, Coleman, Frigon, Hanlon, and Panarello.</li> </ul>

<b>VIII</b>	Destruction of Property <sup>6</sup>	All Named Defendants	<ul style="list-style-type: none"> <li>• <b><u>GRANTED</u></b> as to Defendant City of Worcester.</li> <li>• <b><u>GRANTED</u></b> as to Duffy, Tivnan, Powers, and Mitchell.</li> <li>• <b><u>GRANTED</u></b> as to Defendants Barney, Coleman, Frigon, Hanlon, and Panarello.</li> </ul>
<b>IX</b>	Unreasonable Search and Seizure	All Named Defendants	<ul style="list-style-type: none"> <li>• <b><u>GRANTED</u></b> as to Defendant City of Worcester.</li> <li>• <b><u>GRANTED</u></b> as to Duffy, Tivnan, Powers, and Mitchell.</li> <li>• <b><u>GRANTED</u></b> as to Defendants Barney, Coleman, Frigon, Hanlon, and Panarello.</li> </ul>
<b>X</b>	Civil Conspiracy	All Named Defendants	<ul style="list-style-type: none"> <li>• <b><u>GRANTED</u></b> as to Defendant City of Worcester.</li> <li>• <b><u>GRANTED</u></b> as to Duffy, Tivnan, Powers, and Mitchell.</li> <li>• <b><u>GRANTED</u></b> as to Defendants Barney, Coleman, Frigon, Hanlon, and Panarello.</li> </ul>
<b>XI</b>	Filing of False Police Reports	All Named Defendants	<ul style="list-style-type: none"> <li>• <b><u>GRANTED</u></b> as to Defendant City of Worcester.</li> <li>• <b><u>GRANTED</u></b> as to Duffy, Tivnan, Powers, and Mitchell.</li> <li>• <b><u>GRANTED</u></b> as to Defendants Barney, Coleman, Frigon, Hanlon, and Panarello.</li> </ul>

**SO ORDERED.**

Dated: September 30, 2024

/s/ Margaret R. Guzman

Margaret R. Guzman  
United States District Judge

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<sup>6</sup> Plaintiffs have conceded that this is not a valid cause of action and have abandoned this claim. [ECF No. 52 at 7].